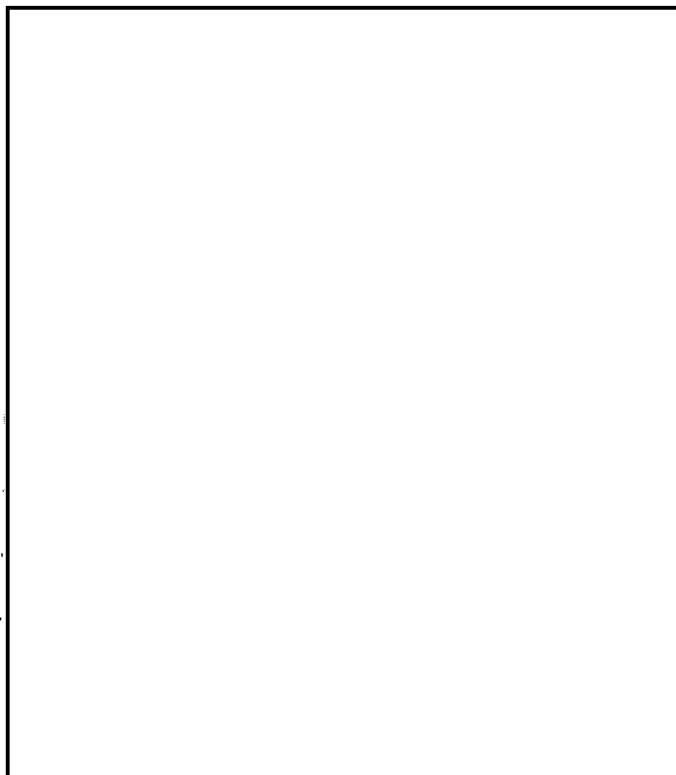


SUBJECT: *Authority in Dissemination of Information*  
Approved For Release 2007/06/04 : CIA-RDP83M00171R002100210002-0  
*of U.S. Persons Contained in Information*  
*Acquired by Electronic Means*

LOG NO.: 7711

DATE OF ITEM: 1-18-80 DATE RECEIVED: 1-22-80

D/PAO COMMENTS:



DISPOSITION:

FILE: NFIB Mfgs

ACTION: \_\_\_\_\_

COORDINATE WITH: \_\_\_\_\_

SUSPENSE DATE: \_\_\_\_\_

EA/PAO COMMENTS:

DOJ Review Completed

DESTROY

ROUTING			
TO:	NAME AND ADDRESS	DATE	INITIALS
1	PAC		
2			
3			
4			
	ACTION	DIRECT REPLY	PREPARE REPLY
	APPROVAL	DISPATCH	RECOMMENDATION
	COMMENT	FILE	RETURN
	CONCURRENCE	INFORMATION	SIGNATURE
REMARKS:			
FROM: NAME, ADDRESS, AND PHONE NO.			DATE

**Top Secret**

(Security Classification)

CONTROL NO. 26 of 35

Handle Via

**COMINT**

Channels

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those approved for the following specific activities:

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**Warning Notice**

Sensitive Intelligence Sources and Methods Involved

**NATIONAL SECURITY INFORMATION**

Unauthorized Disclosure Subject to Criminal Sanctions



**Top Secret**

(Security Classification)

FC IMPDET

**TOP SECRET**

Approved For Release 2007/06/04 : CIA-RDP83M00171R002100210002-0

**NATIONAL FOREIGN INTELLIGENCE BOARD**

NFIB-13.7/8(S)  
18 January 1980

MEMORANDUM FOR NATIONAL FOREIGN INTELLIGENCE BOARD

FROM :   
Secretary

SUBJECT : Authority for Dissemination of Identities  
of United States Persons Contained In  
Information Acquired by Electronic Means (U)

The attached memorandum, which results from a discussion at  
the NFIB meeting on 4 December 1979, is for your information and  
guidance. (U)



25X1

Attachment  
As Stated

SC-06002-80

Copy 26

**HANDLE VIA COMINT CHANNELS**

WARNING NOTICE  
INTELLIGENCE SOURCES  
AND METHODS INVOLVED

**TOP SECRET**

DERIVATIVE CL BY 007789  
☐ DECL ☒ REVW ON Jan 1999  
DERIVED FROM Attached



**TOP SECRET** / HANDLE VIA COMINT CHANNELS

Washington, D.C. 20530

Attachment to  
NFIB-13.7/8(S)  
18 January 1980

MEMORANDUM FOR: National Foreign Intelligence Board Principals

FROM: *cf* Kenneth C. Bass, III  
Counsel for Intelligence Policy  
Office of Intelligence Policy and Review

SUBJECT: Authority for Dissemination of Identities  
of United States Persons Contained In  
Information Acquired by Electronic Means (U)

At the NFIB meeting on December 4, 1979, questions were raised concerning the nature and scope of current authority for dissemination of the identities of U.S. persons appearing in information acquired by electronic means. This memorandum is intended to summarize that authority as interpreted by the Justice Department. The General Counsel of NSA has reviewed this memorandum and does not disagree with its contents. The purpose of this guidance is to provide a general understanding of the legal standards. It is not intended to encourage excessive dissemination of the identities of U.S. persons, but only to clarify the situations in which such identities may be disseminated for foreign intelligence purposes. The decision to disseminate particular information remains with the disseminating entity, e.g., NSA, but consumers should be aware that they may request dissemination of identities in accordance with the procedures outlined in this memorandum. While the various general counsel's offices should be consulted for assistance in the first instance, this Office is prepared to provide prompt advice in specific cases to consumers or disseminating agencies concerning these matters. (U)

I. Electronic Surveillance Outside the U.S.

Attorney General-approved procedures govern electronic surveillance conducted by CIA and NSA outside the United States. The baseline positive foreign intelligence dissemination standard in those procedures provides that the identity of a U.S. person

Classified by Derivative: Procedures Approved  
by the Attorney General Under E.O. 11905  
Review for Declassification: December 5, 1999

**TOP SECRET** / HANDLE VIA COMINT CHANNELS

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who is a communicant or who is referred to in the communication may be disseminated if the identity is "significant foreign intelligence"\*/ in the context of the communication itself. (Section 5(K)). Although the procedures do not preclude a determination by the disseminating agency that the identity of a U.S. person is "significant" foreign intelligence, in practice the presumption has been against disseminating such identities and in favor of substitution of generic terms. It is then up to intelligence analysts and consumers to whom the information has been disseminated to request dissemination where it is their judgment the deleted identity is "significant." The disseminating entity must satisfy itself, giving due consideration to the requester's representations, that the request is reasonable and that the requester has the requisite "need to know." (Section 6(c)). (TS-HVCC)

As to information derived from communications to which a U.S. person is a party, the procedures require that there be no dissemination of the information with or without identities unless the information is determined to be foreign intelligence. (Section 12.) Thus, where a communication to or from a U.S. person is involved, the determination by an appropriate consumer that the identity of a U.S. person is necessary for a full understanding or evaluation of the information may be sufficient to satisfy the disseminating entity that the identity is "significant foreign intelligence" since the disseminated information itself will have been determined previously to be foreign intelligence. (TS-HVCC)

Where the communication does not involve U.S. persons as parties, the procedures do not require a determination prior to its dissemination that the information is foreign intelligence as that term is defined in the procedures. The information must, nonetheless, constitute "foreign intelligence" within the meaning given that term in Executive Order 12036. In any event, where a consumer believes the information is foreign intelligence and that the identity of any U.S. person included in the communication is necessary for its full understanding or evaluation, this judgment should be made known to the disseminating agency. Dissemination is then justified when the disseminator agrees the identity is significant in the context of the communication in question. (TS-EVCC)

\*/ "Foreign intelligence" is a defined term in the governing regulations and is not as broad as the definition in E.O. 12036. This definition of foreign intelligence should not, however, prevent dissemination in most cases relating to the current situation in Iran.

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NFIB-13.770(3)  
18 January 1980

Approved For Release 2007/06/04 : CIA-RDP83M00171R002100210002-0

## II. Electronic Surveillance in the U.S.

The Foreign Intelligence Surveillance Act of 1978 (P.L. 95-511, 50 U.S.C. 1801, et seq.) governs electronic surveillance conducted by the FBI and NSA for intelligence purposes within the United States. Dissemination of information concerning U.S. persons that is acquired through surveillance authorized by the Foreign Intelligence Surveillance Court is governed by "minimization procedures." Under the Act these procedures are required to limit dissemination of foreign intelligence information concerning U.S. persons to that necessary to understand foreign intelligence information or assess its importance. (50 U.S.C. § 1801(h)(2)). The minimization procedures that have been developed and approved by the Court specifically allow for the dissemination of the identity of a U.S. person where it is necessary to understand foreign intelligence information or assess its importance. Again, there is no bar to the disseminator making this determination. As under the Attorney General procedures, however, the general practice that has developed under the Act has been to substitute generic terms and await a request by the consumer on the basis of a justified need for the identity to understand or assess the information. The disseminator must be satisfied, with appropriate weight given to the consumer's needs, that the request is reasonable and that the requester is entitled to receive the identity information. (U)

As I stated at the NFIB meeting, the purpose and intent of these various procedures and provisions of law has not been to disrupt the flow of intelligence information, even where the identities of unconsenting U.S. persons is involved. Rather, the aim is to regularize this flow and provide a standard and a procedural framework to protect against indiscriminate dissemination and use of such information. The procedures are intended to limit dissemination of identities to cases where there is a genuine, demonstrated need to disclose the identity. (C)

(11 January 1980)

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